



# TOSHA INSTRUCTION

TENNESSEE DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT  
DIVISION OF OCCUPATIONAL SAFETY & HEALTH

**DIRECTIVE NUMBER:** CPL-TN 02-00-137 | **EFFECTIVE DATE:** October 10, 2005

**SUBJECT:** Fatality/Catastrophe Investigation Procedures

## Abstract

- Purpose:** This instruction provides comprehensive guidance for the conduct of fatality and catastrophe investigations and subsequent enforcement activities.
- Scope:** This instruction applies TOSHA wide.
- References:** See paragraph III
- Cancellations:** OSHA Instruction CPL 02-00-113 (2.113), Fatality Inspection Procedures.
- Action Office:** All TOSHA Offices

## Executive Summary

This instruction provides guidance for conducting fatality/catastrophe investigations. It defines key terms and identifies appropriate training for TOSHA personnel who investigate such incidents. This instruction outlines a procedure for interviewing witnesses, and provides guidance on the appropriate course of action when dealing with the family members of victims. It addresses documenting, recording and tracking fatality/catastrophe investigations, as well as pre-citation, post-citation, and audit procedures. This instruction emphasizes the importance of a fatality/catastrophe investigation because of its complexity and its value for assisting the Agency in building a database, which can be of use in preventing future fatalities and catastrophes. Furthermore, fatality investigations are of particular importance because of the potential for criminal referral by TOSHA to the District Attorney General(s). The relationship between fatality/catastrophe investigations and other TOSHA programs and activities is addressed, as are potential jurisdictional issues.

## Significant Changes

- Appropriate training for TOSHA personnel conducting fatality/catastrophe investigations is identified.
- Specific witness interview procedures are presented.

- Additional information on recording fatality-related data and tracking fatality/catastrophe investigations is provided.
- Provisions regarding fatality/catastrophe investigations and the relationship between such an investigation and other TOSHA programs and activities have been added.
- Areas where there are questions about TOSHA's jurisdiction are addressed.

## TABLE OF CONTENTS

I.	Purpose.....	1
II.	Scope.....	1
III.	References.....	1
IV.	Cancellations.....	1
V.	Background.....	1
VI.	Definitions.....	2
	A. Fatality .....	2
	B. Catastrophe.....	2
	C. Hospitalization .....	2
	D. Incident of national significance .....	2
VII.	Training.....	2
	A. Initial Compliance Course (1000).....	2
	B. Basic Accident Investigation (1020).....	2
	C. Inspection Techniques and Legal Aspects (1410).....	2
VIII.	Initial Report .....	2
IX.	Fatality/Catastrophe Investigations.....	3
X.	Interview Procedures. ....	3
XI.	Investigation Documentation .....	4
XII.	Potential Criminal Violations .....	4
XIII.	Families of Victims.....	6
XIV.	Public Information Policy .....	7
XV.	Recording and Tracking.....	7
	A. Fatality/Catastrophe Report Form (OSHA-36).....	7
	B. Investigation Summary Report (OSHA-170).....	7
	C. Immigrant Language Questionnaire (IMMLANG).....	8
	D. Related Event Code (REC) .....	8
XVI.	Pre-Citation Review.....	9
XVII.	Post-Citation Procedures.....	9
	A. Informal Settlement Agreements .....	9
	B. Formal Settlement Agreements .....	9
	C. Abatement Verification .....	9
XVIII.	Audit Procedures.....	10
XIX.	Relationship to Other Programs and Activities .....	10
	A. Rescue Operations.....	10
	B. Significant Enforcement Cases .....	11
	C. Special Emphasis Programs .....	11
	D. Cooperative Programs.....	11
XX.	Jurisdictional Issues .....	11
	A. Heart Attack .....	11
	B. Workplace Violence.....	11
	C. Motor Vehicle Accidents .....	11
	Appendix A - Completing the OSHA-36 .....	A-1
	Appendix B - Investigation Documents.....	B-1
	Appendix C - Notification of Referral for Potential Criminal Prosecution .....	C-1

Appendix D

Next of Kin Fatality Letter.....	D-2
Next of Kin Fatality Letter Spanish .....	D-3
Next of Kin Release - No Redactions .....	D-4
Next of Kin Release - No Redactions Spanish .....	D-5
Next of Kin Release - With Redactions .....	D-6
Next of Kin Release - With Redactions Spanish .....	D-7
Instructions for using Spanish Language Letters.....	D-8

- I. Purpose. This instruction provides comprehensive guidance for the conduct of fatality and catastrophe investigations and subsequent enforcement activities.
- II. Scope. This instruction applies TOSHA-wide.
- III. References.
  - A. Tennessee Occupational Safety and Health Plan - Part V, TOSHA Field Operations Manual (FOM).
  - B. OSHA Instruction IRT 01-00-007 (ADM 1-1.31), The IMIS Enforcement Data Processing Manual for use with the NCR Computer System.
  - C. OSHA Instruction CPL 02-00-098 (2.98), Guidelines for Case File Documentation for use with Videotapes and Audiotapes.
  - D. Reporting fatalities and multiple hospitalization incidents to TOSHA, TDLWD Rule 0800-1-3-.04(1).
  - E. TOSHA's policy on employee rescue activities, TDLWD Rule 0800-1-4-.15.
  - F. Abatement Verification, TDLWD Rule 0800-1-4-.23.
  - G. Memorandum dated December 16, 2003, to the Regional Administrators from Deputy Assistant Secretary R. Davis Layne regarding IMMLANG Procedures.
- IV. Cancellations. OSHA Instruction CPL 02-00-113 (2.113), Fatality Inspection Procedures, dated April 1, 1996.
- V. Background. This instruction provides comprehensive guidance for conducting fatality and catastrophe investigations and supplements guidance provided in the TOSHA Field Operations Manual (FOM). The Agency places a very high priority on fatality and catastrophe investigations, which demand a high degree of sensitivity and investigative accuracy. To the extent practical, only trained and experienced CSHOs will be assigned to investigate such incidents.

Fatality investigations are frequently complex because TOSHA personnel typically must examine past events to determine whether violations occurred. Moreover, the potentially criminal nature of violations resulting in the death of an employee necessitates that investigations surrounding such incidents be complete and thoroughly documented. Emphasis is, therefore, placed on the importance of interviewing first responders, emergency medical personnel, and employees/witnesses with first-hand knowledge of the events surrounding the incident early in the investigation.

Additionally, due to the regrettable nature of these cases, care must be taken to ensure that appropriate tact is exercised during the course of an investigation and in subsequent communications with affected persons.

Because of the importance of coordination between all levels of the Agency in fatality and catastrophe cases, the Instruction provides a mechanism to ensure that Area Supervisors inform Section Managers of all proposed actions regarding fatality/catastrophe investigations, and sets forth guidance for advising the Central Office of significant fatality investigations and cases appropriate for potential criminal prosecution.

VI. Definitions.

A. *Fatality.* An employee death resulting from a work-related incident or exposure; in general, from an accident or an illness caused by or related to a workplace hazard.

B. *Catastrophe.* The hospitalization of three or more employees resulting from a work-related incident or exposure; in general, from an accident or an illness caused by a workplace hazard.

C. *Hospitalization.* Being admitted as an in-patient to a hospital or equivalent medical facility for examination, observation or treatment.

D. *Incident of significance.* An incident involving multiple fatalities, extensive injuries, massive toxic exposures, extensive property damage, or one that presents potential worker injury and generates widespread media interest.

VII. Training. The OSHA Training Institute offers several classes relevant to investigating fatalities and catastrophes. TOSHA personnel who may be involved in such investigations are encouraged to enroll in these classes and demonstrate proficiency in the relevant areas addressed. Each of these classes feature fatality case studies.

A. *Initial Compliance Course (1000).*

B. *Basic Accident Investigation (1020).*

C. *Inspection Techniques and Legal Aspects (1410).*

VIII. Initial Report. The Fatality/Catastrophe Report Form (OSHA-36) is a pre-inspection form that must be completed for all fatalities or catastrophes unless knowledge of the event occurs during the course of an inspection at the establishment involved. The purpose of the OSHA-36 is to provide TOSHA with enough information to determine whether or not to investigate the event. Please refer to Section XV for detailed instructions on processing the OSHA-36 (see also Appendix A). If, after the initial

report, the Area Office becomes aware of information that affects the decision to investigate, the OSHA-36 should be updated. If the additional information does not affect the decision to investigate, or the investigation has been initiated or completed, the OSHA-36 need not be updated. Subsequent to updating the OSHA-36, it should be resubmitted to the Central Office. See XV.A.2 for resubmission details.

IX. Fatality/Catastrophe Investigations.

A. All fatalities and catastrophes will be thoroughly investigated in an attempt to determine the cause of the event, whether a violation of TOSHA safety and health standards or the general duty clause occurred, and any effect the violation had on the accident.

1. The investigation should be initiated as soon as possible after receiving report of the incident, ideally within one working day, by an appropriately trained and experienced compliance officer assigned by the Area Supervisor.
2. The Area Supervisor determines the scope of the fatality/catastrophe investigation. Complete all such investigations in an expeditious manner.

B. Videotaping as a method of documentation and gathering evidence is acceptable. Inspections following fatalities or catastrophes should include videotaping when appropriate. Refer to OSHA Instruction CPL 02-00-098 (2.98), Guidelines for Case File Documentation for use with Videotapes and Audiotapes, for more information on electronic documentation.

C. Under no circumstances should TOSHA personnel conducting fatality/catastrophe investigations be unprotected against a hazard encountered during the course of an investigation. TOSHA personnel must use appropriate personal protective equipment and take all necessary precautions to prevent occupational exposure to potential hazards that may be encountered.

X. Interview Procedures.

A. Identify and interview all persons that may have relevant first-hand knowledge of the incident, this may include first responders, police officers, medical responders, and management, as early as possible in the investigation. When non-English speaking persons are encountered, use the telephone translation service or the state-contracted interpretation services. Refer to the FOM, Chapter II.A.4.e, Interviews, for additional guidance.

1. The sooner a witness is interviewed, the more accurate and candid the witness's statement will be.

2. If a union is actively involved in the inspection, it can serve as a valuable resource by assisting in identifying employees who might have information relevant to the investigation.
3. Conduct employee interviews privately, outside the presence of the employer. Employees are not required to inform their employer that they provided a statement to TOSHA.
4. Properly document the contact information of all parties because follow-up interviews with a witness are sometimes necessary.
5. Reduce interviews to writing and have the witness sign the writing. Transcribe video and audiotape interviews and have the witness sign the transcription.
6. Use the TOSHA Witness Statement - Form LB0056 whenever possible.
7. Read the statement to the witness and attempt to obtain agreement. Note any witness refusal to sign or initial his or her statement.
8. Ask the interviewee to initial any changes or corrections made to his or her statement.

B. Witness Confidentiality.

1. As stated in the Tennessee Code Annotated (TCA) section 50-3-302(d), "The name, job title and other information that may be used to identify a witness who is interviewed during the course of an investigation shall be considered confidential and shall not be a public record pursuant to Title 10, Chapter 7."
2. The identity of witnesses will remain confidential to the extent possible. However, inform each witness that disclosure of his or her identity *may* be necessary in connection with enforcement or court actions.
3. Inform witnesses that his or her interview statements may be released if he or she authorizes such a release or if he or she voluntarily discloses the statement to others, resulting in a waiver of the privilege.

C. Inform witnesses in a tactful and non-threatening manner that making a false statement to a CSHO during the course of an investigation could be a criminal offense (TCA § 50-3-502).

XI. Investigation Documentation. Document all fatality and catastrophe investigations in accordance with the guidance provided in the FOM. (Refer to Appendix B for a list of potentially applicable items to be documented.)

XII. Potential Criminal Violations.



A. Part 5 of the TOSH Act provides criminal penalties for an employer who is convicted of having willfully violated a TOSHA standard, rule or order when the violation results in the death of an employee. When there are violations of a TOSHA standard, rule or order, or a violation of the general duty clause, criminal provisions relating to false statements and obstruction of justice may also be relevant.

B. The circumstances surrounding all occupationally-related fatalities will be evaluated to determine whether the fatality was caused by a willful violation of a standard, thus creating the basis for a possible criminal referral. The evidence obtained during a fatality investigation is of paramount importance and must be carefully gathered and considered.

C. Early in the investigation, the Area Supervisor, in consultation with the investigator, should make an initial determination as to whether there is potential for a criminal violation. Refer to FOM Chapter III.C.2.e, Criminal/Willful Violations, for additional information. The decision will be based on consideration of the following:

1. A fatality has occurred.
2. There is evidence that a TOSHA standard has been violated and that the violation contributed to the death.
3. There is reason to believe that the employer was aware of the requirements of the standard and knew that he was in violation of the standard, or that the employer was plainly indifferent to employee safety.

If the Section Manager agrees with the Area Supervisor's assessment of the case, the Section Manager will notify the Administrator, Assistant Administrator and General Counsel.

D. At the discretion of the Section Manager and the Area Supervisor, and dependent upon procedures in place at the time, a Section team may assist in or perform portions of an investigation, as appropriate.

E. In addition to criminal prosecution, employers may potentially face prosecution under a number of other sections of the Tennessee Code, including, but not limited to:

1. Crimes and Criminal Procedures, for actions such as conspiracy, making false statements, fraud, obstruction of justice, and destruction, alteration or falsification of records during an investigation
2. The Clean Water Act
3. The Tennessee Air Quality Act
4. The Resource Recovery and Conservation Act (RCRA)

5. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

F. When a case is forwarded to the General Counsel for criminal review, use the format in Appendix C to advise the Section Manager.

G. Using the format in Appendix C, provide follow-up reports to indicate any subsequent actions.

XIII. Families of Victims.

A. Whenever practical, contact family members of employees involved in fatal or catastrophic occupational accidents or illnesses at an early point in the investigation and give the family an opportunity to discuss the circumstances of the accident or illness. TOSHA staff who contact family members must exercise special tact and good judgment.

B. The standard information letter will normally be sent to the individual(s) listed as the emergency contact on the victim's employment records (if available) and/or the otherwise determined next of kin within 5 working days of determining the victim's identity and verifying the proper address where communications should be sent. The letters named "Next of Kin Fatality Letter.doc" or "Next of Kin Fatality Letter Spanish.doc" are to be used for this purpose. Examples of the letters are contained in Appendix D.

NOTE: In some circumstances, it may not be appropriate to follow these procedures to the letter; i.e., in the case of a small business, the owner or supervisor may be a relative of the victim. Modify the form letter to consider any special circumstances or do not send the letter, as appropriate.

C. When taking a statement from families of the victim(s), explain that the interview will be handled following the same procedures as those in effect for witness interviews. Great sensitivity and professionalism are required for such an interview. Carefully evaluate the information received and attempt to corroborate it during the investigation.

D. At the family's request, we will maintain follow-up contact with key family members or other contact persons so that these parties can be kept up-to-date on the status of the investigation. Provide family members or their legal representatives with a copy of all citations, subsequent settlement agreements or Review Commission decisions as these are issued, or as soon thereafter as possible.

E. At the family's request the case file will be made available to family members at no cost as soon as practical after the contest period has passed. Cover

letters named “Family Information Letter” are provided in both English and Spanish for this purpose.

XIV. Public Information Policy. The TOSHA public information policy regarding response to fatalities and catastrophes is to explain the state is conducting an ongoing investigation and we cannot comment at this time. The Department’s Public Information Office will handle all responses to media inquiries.

XV. Recording and Tracking.

A. **Fatality/Catastrophe Report Form (OSHA-36).** The OSHA-36 is a pre-inspection form that must be completed for all fatalities and catastrophes unless knowledge of the event occurs during the course of an inspection at the establishment involved. Processing of the OSHA-36 shall be as follows:

1. The Area Office shall complete and enter into IMIS an OSHA-36 for all fatalities and catastrophes as soon as possible after learning of the event. As much information as is known at the time of the initial report should be provided; however, all items on the OSHA-36 need not be completed at the time of this initial report. The essential items are included in Appendix A.
2. If additional information relating to the event becomes available that affects the decision to investigate, the OSHA-36 should be updated.
3. The Central Office must send an OSHA-36 for each event that will be investigated to the OSHA Area Director in Nashville within 48 hours of receipt.

B. **Investigation Summary Report (OSHA-170).** The OSHA-170 is used to summarize the results of investigations of all events that involve fatalities, catastrophes, amputations, hospitalizations of two or more days, have generated significant publicity, and/or have resulted in significant property damage. An OSHA-170 must be opened and logged into IMIS **at the beginning** of the fatality or catastrophe investigation. The information on this form enables the Agency to track fatalities and summarizes the circumstances surrounding the event.

NOTE: The two day hospitalization criterion is an arbitrary cutoff to preclude completing an OSHA-170 for events that may not be serious. There is no relationship between this criterion and the Field Operations Manual definitions of hospitalizations.

1. For fatality/catastrophe investigations, the OSHA-170 shall be:
  - a. Opened in IMIS at the beginning of the investigation, even if most of the data fields are left blank, so that that Agency can track fatality/catastrophe investigations in a close to “real time” fashion.

- b. Updated with all data fields completely and accurately completed at the conclusion of the investigation, including a thorough narrative description of the incident.
2. The OSHA-170 narrative should not be a copy of the summary provided on the OSHA-36 pre-inspection form. The OSHA-170 narrative must comprehensively describe the characteristics of the worksite; the employer and its relationship with other employers, if relevant; the employee task/activity being performed; the related equipment used; and other pertinent information in enough detail to provide a third party reader of the narrative with a mental picture of the fatal incident and the factual circumstances surrounding the event.
3. Only one OSHA-170 should be submitted for an event, regardless of how many inspections ensue. If a subsequent event occurs during the course of an inspection, a new OSHA-170 for that event should be submitted.

EXAMPLE: A fatality occurs in employer's facility in August. Both a safety inspection and a health inspection result from that fatality. One OSHA-170 should be filed to summarize the results of the inspections that resulted from the August fatality. However, in September, while employer's facility is still undergoing the inspections, a second fatality occurs. In this case, a *second* OSHA-170 should be submitted for the second fatality and an additional inspection should be opened.

C. **Immigrant Language Questionnaire (IMMLANG).** The IMMLANG questionnaire is designed to allow the Agency to track fatalities among Hispanic and immigrant workers and to assess the impact of potential language barriers and training deficiencies on fatal accidents.

1. The IMMLANG Questionnaire shall be completed before the conclusion of a fatality investigation according to the procedures outlined in the December 16, 2003 Memorandum from Deputy Assistant Secretary R. Davis Layne to the Regional Administrators.
2. Enter the "N-10 Optional Information Code" as required on the OSHA-1 form.
3. The IMMLANG Questionnaire shall be submitted via the internet by the central office.
4. A copy of the completed questionnaire should be printed and placed in the case file.

D. **Related Event Code (REC).** The OSHA-1B provides specific supplemental information documenting hazards and violations. If any item cited is directly related to the occurrence of the fatality or catastrophe, the related event code "A" shall be entered in block 13. If multiple related event codes apply, the

only code that has priority over relation to a fatality/catastrophe (“A”) is relation to an imminent danger (“I”).

XVI. Pre-citation Review.

A. Because cases involving a fatality may result in civil or criminal enforcement actions, the Area Supervisor is responsible for reviewing all fatality and catastrophe investigation case files to ensure that the case has been properly developed and documented in accordance with the procedures outlined in this instruction.

B. The Area Supervisor is also responsible for ensuring that an OSHA-170 for each incident is reported to IMIS (see XVI.B).

C. Each Section Manager should establish a procedure to ensure that each fatality or catastrophe is thoroughly investigated and processed in accordance with established policy.

XVII. Post-citation Procedures.

A. **Informal Settlement Agreements.** Area Supervisors are authorized to enter into Informal Settlement Agreements on fatality and catastrophe cases in accordance with the guidance provided in the FOM, Chapter IV.G.4.a.-d., Settlement of Citation Disputes, and any instructions that govern the conduct of Informal Conferences.

B. **Formal Settlement Agreements.** Following the filing of a notice of contest, the Area Supervisor should refer the case to the General Counsel’s Office in accordance with both the procedures established by the TOSHRC Rules and with the FOM, Chapter IV.H.

C. **Abatement Verification.** The regulation governing abatement verification is found in TDLWD Rule 0800-1-4-.23 Abatement Verification.

1. Due to the transient nature of many of the worksites where fatalities occur and because the worksite may be destroyed by the catastrophic event, it is frequently impossible to conduct follow-up inspections. In such cases, the Area Supervisor should obtain abatement verification from the employer, along with an assurance that appropriate safety and health programs have been implemented to prevent the hazard(s) from recurring.
2. While site closure due to the completion of the cited project is an acceptable method of abatement, it can only be accepted as abatement without certification where a CSHO directly verifies that closure; otherwise, certification by the employer is required. Follow-up inspections need not be conducted if the CSHO has

verified abatement during the inspection or if the employer has provided other proof of abatement.

3. Where the worksite continues to exist, TOSHA will normally conduct a follow-up inspection if serious citations have been issued and acceptable proof of abatement has not been received.
4. Include abatement language and safety and health program implementation language in any subsequent settlement agreement.
5. If there is a violation that requires abatement verification block 22 on the OSHA-1B shall be completed with the date abatement was verified.

XVIII. Audit Procedures. The Section Manager will assure this directive is being followed by conducting a thorough review of all fatality and catastrophe case files submitted.

XIX. Relationship to Other Programs and Activities.

A. **Rescue Operations.** TOSHA has no authority to direct rescue operations. Such operations are the responsibility of the employer and/or local political subdivisions or state agencies. TOSHA does have the authority to monitor and inspect working conditions of covered employees engaged in rescue operations to ensure that all necessary procedures are in place to protect the lives of the rescuers, and to provide technical assistance where appropriate. See TDLWD Rule 0800-1-4-.15 Citations and Policy Regarding Employee Rescue Activities.

B. **Significant Enforcement Cases.** Significant enforcement cases are defined as inspection cases with initial proposed penalties over \$10,000. An inspection resulting from a worker fatality or a workplace catastrophe may well be a significant enforcement case and, therefore, thorough documentation is necessary, because all significant enforcement cases must be adequately documented to sustain legal sufficiency. All significant enforcement cases are to be reported to the Commissioner of Labor and Workforce Development prior to the issuance of a citation and notification of penalty.

C. **Special Emphasis Programs.** If a fatality or catastrophe investigation arises with respect to an establishment that is also in the current inspection cycle to receive a programmed inspection under any Special Emphasis program, the investigation and the inspection may be conducted either concurrently or separately.

D. **Cooperative Programs.** If the fatality or catastrophe occurred at a Voluntary Protection Program (VPP) or Safety and Health Achievement and Recognition Program (SHARP), the VPP Manager or the Consultation Manager, should be notified. When enforcement activity has concluded, the VPP Manager or Consultation Manager should be informed so that the site can be reviewed for program issues.

**XX. Jurisdictional Issues.**

A. **Death by Natural Causes.** - According to TDLWD Rule 0800-1-3-.05(1)(b)(5.), workplace fatalities caused by natural causes must be reported by the employer and the local TOSHA Area Supervisor will decide whether to investigate the incident, depending on the circumstances.

B. **Workplace Violence.** - As with heart attacks, fatalities caused by incidents of workplace violence must be reported by the employer. The local Area Supervisor, after consulting with the appropriate Section Manager, will determine whether or not the incident will be investigated.

C. **Motor Vehicle Accidents.** - TOSHA does not have jurisdiction over motor vehicle accidents that occur on public roads or highways unless the accident involves employees performing work in a construction work zone. Although employers who are required to keep records must record vehicle accidents in their OSHA 300 Log of Work Related Injuries and Illnesses, TOSHA does not investigate such accidents.

## **Appendix A Completing the OSHA-36**

### Essential information to be provided:

- (1) Area Office Name – where report originated
- (2) Establishment Name
- (3) Event Address
- (4) Type of Business – include primary SIC and NAICS (if known)
- (5) Classification
- (6) Event Date
- (7) Event Time
- (8) Number of Fatalities
- (9) Number of Hospitalized Injuries
- (10) Number of Non-Hospitalized Injuries
- (11) Number Unaccounted For
- (12) Type of Event
- (13) Preliminary Description
- (14) Inspection Planned – Provide time when TOSHA personnel are expected to arrive at the scene, if applicable.



## **Appendix B**

### **Investigation Documentation**

Where pertinent, investigation documentation may include:

#### **A. Personal Data – Victim.**

1. Name
2. Address
3. Telephone
4. Age
5. Sex
6. Job title
7. Date of employment
8. Time in position
9. Job being done at the time of the incident.
10. Training for job being performed at time of the incident
11. Employee deceased/injured
12. Nature of injury – fracture, amputation, etc.
13. Prognosis of injured employee

#### **B. Incident Data.**

1. How and why did the incident occur?
2. Physical layout
3. Sketches/drawings
4. Measurements
5. Video/audio/photos – identify sources
6. Was the accident work-related?

#### **C. Equipment or Process Involved.**

1. Equipment type
2. Manufacturer
3. Model
4. Manufacturer's instructions
5. Kind of process
6. Condition
7. Misuse
8. Maintenance program
9. Equipment inspection (logs, reports)
10. Warning devices (detectors)
11. Tasks performed
12. How often equipment is used
13. Energy sources and disconnecting means identified
14. Supervision or instruction provided to employees involved in accident

#### **D. Witness Statements.**

1. Public
2. Fellow employees
3. Management
4. Emergency responders
5. Medical Personnel

E. **Safety and Health Management System.**

1. Does employer have a safety and/or health management system?
2. Does the system address the type of hazard that resulted in the fatality/catastrophe?

F. **Multi-Employer Work Site** – describe the contractual relationship of the employer with the other employers involved with the work being performed at the worksite.

## **Appendix C**

### **Notification of Referral for Potential Criminal Prosecution**

Establishment name:\_\_\_\_\_

Inspection number:\_\_\_\_\_

Date referred to Central Office:\_\_\_\_\_

Description of the possible criminal activity:\_\_\_\_\_

Standards involved:\_\_\_\_\_

#### **Update Information:**

Date of Report:\_\_\_\_\_

Date case declined for litigation:\_\_\_\_\_

Organization that declined litigation:\_\_\_\_\_

Reason for declining:\_\_\_\_\_

Date Central Office referred case to General Counsel:\_\_\_\_\_

Date General Counsel referred to District Attorney General:\_\_\_\_\_

Current status:\_\_\_\_\_

# **Appendix D**

Next of Kin Fatality Letter



**STATE OF TENNESSEE  
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT  
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

710 James Robertson Parkway, 3rd Floor  
Nashville, Tennessee 37243-0659

October 11, 2005

Dear Mrs./Ms./Mr. <Family Member Name>:

Please accept my sympathy for the loss your family has suffered in the death of Mrs./Ms./Mr. < Victim Name >.

The Tennessee Occupational Safety and Health Administration will investigate the circumstances surrounding the tragic event and the results will be made available to you upon your request, without charge. If violations of the TOSHA standards are documented during this investigation, citations and monetary penalties may be issued to the employer. The investigation process may take up to six months.

If you, or another family member, have questions about our ongoing investigation or information you would like to provide to our investigator, please contact:

<AREA SUPERVISOR NAME>  
<AREA OFFICE ADDRESS>  
<AREA OFFICE PHONE NUMBER>

If you wish to receive a copy of the final inspection report, please contact Mike Maenza, Standards and Procedures Manager, at 1-800-249-8510.

Sincerely,

John Winkler  
Administrator

Next of Kin Fatality Letter-Spanish



**ESTADO DE TENNESSEE  
DEPARTAMENTO DEL TRABAJO Y DESARROLLO LABORAL  
DIVISIÓN DE SEGURIDAD Y SALUD OCUPACIONAL**

710 James Robertson Parkway, 3rd Floor  
Nashville, Tennessee 37243-0659

11 de octubre de 2005

Estimado/a Sra./Srta./Sr. <Insert Family Member Name>:

El motivo de la presente es ofrecerle mis más sinceras condolencias por la pérdida que su familia acaba de sufrir con la muerte de el/la Sra./Srta./Sr. <Insert Victim Name>.

La Administración de Seguridad y Salud Ocupacional de Tennessee investigará las circunstancias relacionadas con este trágico suceso y le haremos saber los resultados, previa solicitud de su parte, sin costo alguno para usted. Si en el curso de esta investigación, se determina que hubo alguna infracción de las normas de la Administración de Seguridad y Salud Ocupacional de Tennessee (TOSHA, por sus siglas en inglés), puede que se le impongan multas o sanciones monetarias al empleador. El proceso de investigación podría tardar hasta seis meses.

Si usted, o algún otro familiar, tienen alguna pregunta relacionada con la presente investigación, o si tienen alguna información que quisieran ofrecerle a nuestro investigador, sírvanse ponerse en contacto con:

<AREA SUPERVISOR NAME>  
<AREA OFFICE ADDRESS>  
<AREA OFFICE PHONE NUMBER>

Si quisiera recibir una copia del informe definitivo de la inspección, sírvase ponerse en contacto con Mike Maenza, Director de Normas y Procedimientos, llamando al 1-800-249-8510.

Atentamente,

John Winkler  
Administrador

Next of Kin Release - No Redactions



**STATE OF TENNESSEE  
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT  
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
710 James Robertson Parkway, 3rd Floor  
Nashville, Tennessee 37243-0659, (615) 741-2793**

October 11, 2005

Dear Mrs./Ms./Mr. <Family Member Name>:

Please accept our sincerest sympathy. We deeply regret your loss.

Enclosed is the information you requested. If you have any questions or need additional information, do not hesitate to contact me.

Sincerely,

Michael M. Maenza, Manager  
Standards & Procedures

Enclosure

Next of Kin Release - No Redactions - Spanish



11 de octubre de 2005

Estimado/a Sra./Srta./Sr. <Insert Family Member Name>:

El motivo de la presente es ofrecerle nuestras más sinceras condolencias. Sentimos muchísimo su pérdida.

A continuación anexamos la información que solicitó. Si tiene alguna pregunta o si necesita más información, no dude en ponerse en contacto conmigo.

Atentamente,

Michael M. Maenza, Director  
Normas y Procedimientos

Anexo



October 11, 2005

TOSHA Instruction CPL-TN 02-00-137

Next of Kin Release - With Redactions



**STATE OF TENNESSEE  
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT  
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
710 James Robertson Parkway, 3rd Floor  
Nashville, Tennessee 37243-0659, (615) 741-2793**

October 11, 2005

Dear Mrs./Ms./Mr. <Family Member Name>:

Please accept our sincerest sympathy. We deeply regret your loss.

Enclosed is a copy of information you requested. Please be advised that portions of the records you have requested are exempt from disclosure under state or federal law. Therefore, these portions have been redacted from the records being released to you.

If you have any questions or need additional information, do not hesitate to contact me.

Sincerely,

Michael M. Maenza, Manager  
Standards & Procedures

Next of Kin Release - With Redactions - Spanish



**ESTADO DE TENNESSEE  
DEPARTAMENTO DEL TRABAJO Y DESARROLLO LABORAL  
DIVISIÓN DE SEGURIDAD Y SALUD OCUPACIONAL  
710 James Robertson Parkway, 3rd Floor  
Nashville, Tennessee 37243-0659, (615) 741-2793**

11 de octubre de 2005

Estimado/a Sra./Srta./Sr. <Insert Family Member Name>:

El motivo de la presente es ofrecerle nuestras más sinceras condolencias. Sentimos muchísimo su pérdida.

A continuación le anexamos una copia de la información que solicitó. Sólo quisiéramos aclararle que conforme a leyes federales o estatales, parte de los expedientes que solicitó se consideran exentos de divulgación. Por lo tanto, omitimos esas partes de los expedientes que le vamos a entregar.

Si tiene alguna pregunta o si necesita más información, no dude en ponerse en contacto conmigo.

Atentamente,

Michael M. Maenza, Director  
Normas y Procedimientos

## INSTRUCTIONS FOR USING SPANISH LANGUAGE LETTERS

The Spanish translation of the letters included with this instruction need minor editing to insure use of the correct gender references. There are two modifications that must be made to insure that the letters are gender specific. Each salutation will have to be modified slightly, as will the first paragraph of the “Next Of Kin Fatality Letter Spanish.doc”. The following instructions should help anyone using the letters make the appropriate changes to reflect the gender of the recipient and the victim.

**SPANISH LETTER SALUTATION** - The unedited salutation in the three Spanish form letter templates is as follows:

*Estimado/a Sra./Srta./Sr. <Insert Family Member Name>:*

### THE FOLLOWING THREE EXAMPLES DEMONSTRATE THE CHANGES REQUIRED IN THE SALUTATION OF THE SPANISH LANGUAGE LETTERS:

1. **MALE RECIPIENT:** If the person to whom we are sending the letter is a male, the salutation **Estimado/a Sra./Srta./Sr.** must be edited so that it appears as follows:

**Estimado Sr.** <Insert Family Member Name>:

2. **UNMARRIED FEMALE RECIPIENT:** If the person to whom we are sending the letter is an unmarried female or marital status unknown, the salutation **Estimado/a Sra./Srta./Sr.** must be edited so that it appears as follows:

**Estimada Srta.** <Insert Family Member Name>:

3. **MARRIED FEMALE RECIPIENT:** If the person to whom we are sending the letter is a married or widowed female, the salutation **Estimado/a Sra./Srta./Sr.** must be edited so that it appears as follows:

**Estimada Sra.** <Insert Family Member Name>:

**NEXT OF KIN FATALITY LETTER SPANISH** - The letter titled “Next of Kin Fatality Letter Spanish.doc” contains the name of the victim at the end of the first paragraph. It must be modified similar to the salutation so that the victim’s gender is properly reflected. The Spanish translation of the paragraph in the form letter appears as follows:

*El motivo de la presente es ofrecerle mis más sinceras condolencias por la pérdida que su familia acaba de sufrir con la muerte de el/la Sra./Srta./Sr. <Insert Victim Name>.*

**THE FOLLOWING THREE EXAMPLES DEMONSTRATE THE CHANGES REQUIRED IN THE FIRST PARAGRAPH OF THE NEXT OF KIN FATALITY LETTER SPANISH:**

1. **MALE VICTIM:** If the victim is a male, edit the paragraph to appear as follows:

El motivo de la presente es ofrecerle mis más sinceras condolencias por la pérdida que su familia acaba de sufrir con la muerte de *el Sr. <Insert Victim Name>*.

2. **UNMARRIED FEMALE VICTIM:** If the victim is an unmarried female or marital status unknown, edit the paragraph to appear as follows:

El motivo de la presente es ofrecerle mis más sinceras condolencias por la pérdida que su familia acaba de sufrir con la muerte de *la Srta. <Insert Victim Name>*.

3. **MARRIED FEMALE VICTIM:** If the victim is a married or widowed female, edit the paragraph to appear as follows:

El motivo de la presente es ofrecerle mis más sinceras condolencias por la pérdida que su familia acaba de sufrir con la muerte de *la Sra. <Insert Victim Name>*.